

AMENDED IN ASSEMBLY MARCH 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1717

Introduced by Assembly Member Dickinson

February 16, 2012

An act to amend Section 44830.1 of the Education Code, and to amend Section 1555 of the Health and Safety Code, relating to certificated school district employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1717, as amended, Dickinson. Certificated school district employees.

(1) Existing law requires the State Department of Social Services to notify the local director of social services and the probation officer of the county in which a community care facility is located whenever the license, registration, or special permit issued to the community care facility is suspended, revoked, temporarily suspended, forfeited, canceled, or expired.

Existing law requires the Department of Justice to notify a school district if it discovers that an individual who is an applicant for employment for a position requiring certification qualifications has been convicted of specified offenses and requires a school district employer to request subsequent arrest service from the Department of Justice, as specified.

This bill would require the State Department of Social Services to notify, *as provided*, the Department of Justice whenever ~~an accusation or complaint is made against a holder of a license, registration, or special permit for a community care facility alleging grounds for suspension, revocation, or temporary suspension of the license, registration, or~~

~~special permit~~ a license, registration, or special permit issued for a community care facility is revoked or has an exclusion on the grounds that the holder engaged in conduct inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

The bill would require the Department of Justice to provide to a school district information pertaining to ~~an accusation or complaint alleging grounds for suspension, revocation, or temporary suspension~~ the revocation of or exclusion on a license, registration, or special permit for a community care facility if ~~the accusation or complaint is made against a certificated school employee who is also the holder of that license, registration, or special permit or an applicant for employment by the school district is the subject of the information.~~ The bill would require the department to provide the information within 10 days of receipt of the information.

(2) The bill also would make technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44830.1 of the Education Code is
2 amended to read:
3 44830.1. (a) In addition to any other prohibition or provision,
4 a person who has been convicted of a violent or serious felony
5 shall not be hired by a school district in a position requiring
6 certification qualifications or supervising positions requiring
7 certification qualifications. A school district shall not retain in
8 employment a current certificated employee who has been
9 convicted of a violent or serious felony, and who is a temporary
10 employee, a substitute employee, or a probationary employee
11 serving before March 15 of the employee's second probationary
12 year. If any conviction is reversed and the formerly convicted
13 person is acquitted of the offense in a new trial, or the charges are
14 dismissed, this section does not prohibit his or her employment
15 thereafter.
16 (b) This section applies to any violent or serious offense that,
17 if committed in this state, would have been punishable as a violent
18 or serious felony.

1 (c) (1) For purposes of this section, a violent felony is any
2 felony listed in subdivision (c) of Section 667.5 of the Penal Code
3 and a serious felony is any felony listed in subdivision (c) of
4 Section 1192.7 of the Penal Code.

5 (2) For purposes of this section, a plea of nolo contendere to a
6 serious or violent felony constitutes a conviction.

7 (3) For purposes of this section, the term “school district” has
8 the same meaning as defined in Section 41302.5.

9 (d) When the governing board of any school district requests a
10 criminal record summary of a temporary, substitute, or probationary
11 certificated employee, two fingerprint cards, bearing the legible
12 rolled and flat impressions of the person’s fingerprints together
13 with a personal description and the fee, shall be submitted, by any
14 means authorized by the Department of Justice, to the Department
15 of Justice.

16 (e) When the Department of Justice ascertains that an individual
17 who is an applicant for employment by a school district has been
18 convicted of a violent or serious felony, or for purposes of
19 implementing the prohibitions set forth in Section 44836, any sex
20 offense, as defined in Section 44010, or any controlled substance
21 offense, as defined in Section 44011, or is the subject of
22 information received pursuant to subdivision (b) of Section 1555
23 of the Health and Safety Code, the Department of Justice shall
24 notify the school district of the criminal or other information
25 pertaining to the applicant. The notification shall be delivered by
26 telephone or electronic mail to the school district. The notification
27 to the school district shall cease to be made once the statewide
28 electronic fingerprinting network is returning responses within
29 three working days. The Department of Justice shall send by
30 first-class mail or electronic mail a copy of the criminal or other
31 information to the Commission on Teacher Credentialing. The
32 Department of Justice may charge a reasonable fee to cover the
33 costs associated with processing, reviewing, and supplying the
34 criminal record summary or other information required by this
35 section. The fee shall not exceed the actual costs incurred by the
36 Department of Justice.

37 (f) Notwithstanding subdivision (a), a person shall not be denied
38 employment or terminated from employment solely on the basis
39 that the person has been convicted of a violent or serious felony
40 if the person has obtained a certificate of rehabilitation and pardon

1 pursuant to Chapter 3.5 (commencing with Section 4852.01) of
2 Title 6 of Part 3 of the Penal Code.

3 (g) Notwithstanding subdivision (f), a person shall not be denied
4 employment or terminated from employment solely on the basis
5 that the person has been convicted of a serious felony that is not
6 also a violent felony if that person can prove to the sentencing
7 court of the offense in question, by clear and convincing evidence,
8 that he or she has been rehabilitated for the purposes of school
9 employment for at least one year. If the offense in question
10 occurred outside this state, the person may seek a finding of
11 rehabilitation from the court in the school district in which he or
12 she is a resident.

13 (h) Notwithstanding any other law, when the Department of
14 Justice notifies a school district by telephone or electronic mail
15 that a current temporary employee, substitute employee, or
16 probationary employee serving before March 15 of the employee's
17 second probationary year, has been convicted of a violent or serious
18 felony, that employee shall immediately be placed on leave without
19 pay. When the school district receives written electronic
20 notification of the fact of conviction from the Department of
21 Justice, the employee shall be terminated automatically and without
22 regard to any other procedure for termination specified in this code
23 or school district procedures unless the employee challenges the
24 record of the Department of Justice and the Department of Justice
25 withdraws in writing its notification to the school district. Upon
26 receipt of written withdrawal of notification from the Department
27 of Justice, the employee shall immediately be reinstated with full
28 restoration of salary and benefits for the period of time from the
29 suspension without pay to the reinstatement.

30 (i) (1) An employer shall request subsequent arrest service from
31 the Department of Justice as provided under Section 11105.2 of
32 the Penal Code.

33 (2) Within 10 days of receipt of information provided to the
34 Department of Justice pursuant to Section 1555 of the Health and
35 Safety Code subsequent to employment of a person, the Department
36 of Justice shall provide to a school district employer notification
37 of that information and copies of all records provided to the
38 Department of Justice pertaining to the ~~accusation or complaint~~
39 *revocation or exclusion*, in compliance with all applicable federal
40 and state privacy laws. The notification shall be delivered to the

1 school district employer in the same manner as set forth in
2 subdivision (e).

3 (j) Notwithstanding Section 47610, this section applies to a
4 charter school.

5 (k) This section shall not apply to a certificated employee who
6 applies to renew his or her credential when both of the following
7 conditions have been met:

8 (1) The employee's original application for credential was
9 accompanied by that person's fingerprints.

10 (2) The employee has either been continuously employed in
11 one or more public school districts since the issuance or last
12 renewal of his or her credential or his or her credential has not
13 expired between renewals.

14 (l) This section does not prohibit a county superintendent of
15 schools from issuing a temporary certificate to any person
16 described in paragraph (1) or (2) of subdivision (k).

17 (m) This section does not prohibit a school district from hiring
18 a certificated employee who became a permanent employee of
19 another school district as of October 1, 1997.

20 (n) All information obtained from the Department of Justice is
21 confidential. Every agency handling Department of Justice
22 information shall ensure the following:

23 (1) A recipient shall not disclose its contents or provide copies
24 of information.

25 (2) Information received shall be stored in a locked file separate
26 from other files, and shall only be accessible to the custodian of
27 records.

28 (3) Information received shall be destroyed upon the hiring
29 determination in accordance with subdivision (a) of Section 708
30 of Title 11 of the California Code of Regulations.

31 (4) Compliance with destruction, storage, dissemination,
32 auditing, backgrounding, and training requirements as set forth in
33 Sections 700 through 708, inclusive, of Title 11 of the California
34 Code of Regulations and Section 11077 of the Penal Code,
35 governing the use and security of criminal offender record
36 information, is the responsibility of the entity receiving the
37 information from the Department of Justice.

38 SEC. 2. Section 1555 of the Health and Safety Code is amended
39 to read:

1 1555. (a) Whenever a license, registration, or special permit
2 issued under this chapter for a community care facility is
3 suspended, revoked, temporarily suspended, forfeited, canceled,
4 or expires, the department shall provide written notice of that
5 occurrence within 10 days to the local director of social services
6 and the probation officer of the county in which the community
7 care facility is located.

8 ~~(b) Whenever an accusation or complaint is made against a~~
9 ~~holder of a license, registration, or special permit issued under this~~
10 ~~chapter for a community care facility alleging grounds for~~
11 ~~suspension, revocation, or temporary suspension pursuant to~~
12 ~~Section 1550 a license, registration, or special permit issued under~~
13 ~~this chapter for a community care facility is revoked or has an~~
14 ~~exclusion on the grounds that the holder engaged in conduct~~
15 ~~inimical to the health, morals, welfare, or safety of either an~~
16 ~~individual in, or receiving services from, the facility or the people~~
17 ~~of the State of California, the department shall provide written~~
18 ~~notice of that occurrence within 10 days to the Department of~~
19 ~~Justice, and copies of records pertaining to the accusation or~~
20 ~~complaint, including complaints, statements, and investigative~~
21 ~~reports revocation or exclusion, in compliance with all applicable~~
22 ~~federal and state privacy laws.~~